

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

AVERY CHURCH, JR.,

Petitioner,

vs.

STATE OF NEVADA, *et al.*,

Respondents.

3:11-cv-00904-RCJ-VPC

ORDER

Petitioner has submitted a document to the court in which he appears to challenge his criminal conviction in state court and the effectiveness of his counsel during his criminal proceedings. (ECF No. 1.) Accordingly, the court construes this action as a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. However, petitioner has failed to simultaneously submit either a motion for leave to proceed *in forma pauperis* or payment of the \$5.00 filing fee. Petitioner shall be sent a motion for leave to proceed *in forma pauperis* form, should he wish to apply for pauper status, and alternatively given an opportunity to pay the requisite filing fee.

Additionally, the petition for writ of habeas corpus submitted in this action is not written on the form required by this court for petitioners proceeding *pro se*. A *pro se* habeas corpus petitioner is required to use the court's approved form for filing actions pursuant to 28 U.S.C. § 2254. Local Rules of Special Proceedings 3-1. The court will provide petitioner with the approved form for filing a *pro se* habeas corpus petition. Petitioner shall be allowed an additional period of time within which to file with the court a proposed habeas corpus petition using the form provided by the court. If petitioner fails

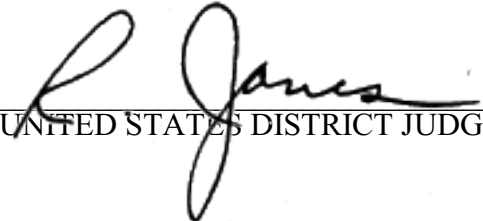
1 to provide the court with his petition using the court approved forms, this action may be dismissed and
2 closed.

3 **IT IS THEREFORE ORDERED** that the clerk shall send to petitioner a new motion for leave
4 to proceed *in forma pauperis* form and instructions therefor. Petitioner shall have **thirty (30) days** from
5 the date of entry of this order within which to file a motion for leave to proceed *in forma pauperis*.
6 Alternatively, petitioner shall have **thirty (30) days** from the date of entry of this order within which to
7 have the full \$5.00 filing fee sent to the clerk. Petitioner's failure to either submit a fully completed
8 motion for leave to proceed *in forma pauperis* or the filing fee may result in the dismissal of this action.

9 **IT IS FURTHER ORDERED** that the clerk shall send petitioner two copies of this order. If
10 petitioner chooses not to submit a new motion for leave to proceed *in forma pauperis*, then petitioner
11 is ordered to make the necessary arrangements to have one copy of this order attached to the check in
12 the amount of the full \$5.00 filing fee within **thirty (30) days** from the date of entry of this order.

13 **IT IS FURTHER ORDERED** that the clerk shall send petitioner a set of forms for filing § 2254
14 actions in this court, together with instructions for filing such forms. Petitioner shall have **forty-five**
15 **(45) days** from the date of the entry of this order within which to file a revised petition using only the
16 court approved form. If petitioner fails to comply with this directive, this action shall be dismissed and
17 closed.

18 Dated this 23rd day of February, 2012.

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21 UNITED STATES DISTRICT JUDGE
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